



Department of Pesticide Regulation



Mary-Ann Warmerdam
Director

Arnold Schwarzenegger
Governor

September 24, 2004

ENF 04-21

TO: County Agricultural Commissioners

SUBJECT: "PHYSICALLY PRESENT" WHEN AT LEAST TWO HANDLERS ARE
REQUIRED TO BE PRESENT

In consideration of advances in communications technology, the Department of Pesticide Regulation is modernizing the interpretation of "physically present" to mean maintenance of either visual or two-way voice contact between the certified applicator physically on the premises where the pesticide handling activities are occurring and the noncertified handlers in those situations when there are **TWO HANDLERS** at the pesticide handling site.

Whenever activities requiring "physical presence" are being conducted the certified applicator must be physically located on the premises or contiguous parcel. The certified applicator and the noncertified handlers being supervised must be able to contact each other directly, at all times during the handling activities that require "physically present" supervision by regulation or labeling. The potential for immediate communication using their own human voices (not text messaging, computer-generated voice paging, voicemail, etc.), such as by two-way radio or cellular telephone, is required.

Where California statutes, regulations, or labeling require physical presence but continue to allow one noncertified handler at the handling site, the certified applicator must maintain the direct supervision and physically present "in-line of sight" visual standard. Voice contact alone to one noncertified handler does not meet this standard.

This Enforcement Letter amends and supercedes the Manual of Procedural Guidance for Pesticide Enforcement Personnel, Enforcement Letter ENF 93-14 and any other previous document that may conflict.



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If you have any questions, please contact the Enforcement Branch Liaison assigned to your county.

Sincerely,

Original Signed by

Scott T. Paulsen, Chief
Enforcement Branch
(916) 324-4100

cc: Mr. Daniel J. Merkley, DPR Agricultural Commissioner Liaison